

REMARKS

Claims 1-16 are pending. By this Amendment, claims 1 and 5 are amended.

Reconsideration of the present application is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representatives by Examiner Nguyen in the February 8, 2005 telephonic interview. Applicants separate record of the substance of the interview is incorporated into the following remarks. Specifically, claims 1 and 5 are amended to comply with the Examiner's helpful suggestions made during the interview.

I. The Claims Define Allowable Subject Matter

The Office Action rejects claims 1-11 and 13-16 under 35 U.S.C. §102(b) over U.S. Patent No. 5,245,646 to Jackson et al. ("Jackson"), and claim 12 under 35 U.S.C. §103(a) over Jackson. These rejections are respectfully traversed.

Jackson does not disclose a method including "providing an adjustable capacitor arranged in parallel with a fixed capacitor for determining a frequency response of said filter," as recited in claim 1, or a circuit arrangement including "an active filter including a fixed capacitor and at least one adjustable capacitor that determines frequency response, the adjustable capacitor being arranged in parallel with the fixed capacitor," as recited in claim 5.

Instead, Jackson discloses "[e]ach of the capacitors 80-84 has a second electrode connected to a first terminal of a respective one of a plurality of switches 90-94. In other words, the second electrode capacitor 80 is connected to the first terminal of switch 90, and so forth for capacitors 81-84 and switches 91-94." Col. 5, lns. 10-15. In addition, "[e]ach of switches 90-94 has a control terminal for respectively receiving control signals B0-B4 from decoder 34." Col. 5, lns. 17-19. Thus, Jackson relies on switches to control and modify the component value of the analog filter. See Col. 2, lns. 59-62.

In contrast, the present invention uses a fixed capacitor arranged in parallel with an adjustable capacitor. With this arrangement, the number of switchable capacitors can be reduced or eliminated. The arrangement in the present invention is very advantageous because the device and method is simplified by transmitting the information about the nominal filter frequency and about the ascertained time constant to the control device and connecting it to various lines in an address input which is several bits wide. In this way, no complex logic is required and an ordinary read-only memory can be used for the memory device. Since such memories are generally available only with a particular number of memory cells, memory cells are sometimes unused if the number of combinations comprising the number of nominal filter frequencies and the possible time constants is smaller than the number of memory cells. *See* page 10, paragraph [028]. Furthermore, contact resistance of added switches may impair the operation of the filter when using a circuit for determining the measure of the frequency response. *See* page 3, paragraph [007].

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. §§102 and 103 should be withdrawn because the applied reference does not teach or suggest each feature of independent claims 1 and 5.

As pointed on in MPEP §2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).” Similarly, MPEP §2143.03 instructs that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).”

For at least these reasons, it is respectfully submitted that independent claims 1 and 5 are patentable over the applied reference. The remainder of the claims that depend from independent claims 1 and 5 are likewise patentable over the applied reference for at least the reasons discussed above, as well as for the additional features they recite.

IV. Conclusion

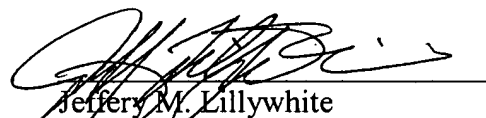
In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-16 are earnestly solicited.

Any fees incident to this Amendment After Final Rejection Under 37 C.F.R. § 1.116 may be charged to Deposit Account No. 08-2665.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact undersigned representative at the telephone number below.

DATED this 14th day of February, 2005.

Respectfully submitted,



Jeffery M. Lillywhite
Registration No. 53,220
Holme Roberts & Owen LLP
Customer No. 34013
299 South Main, Suite 1800
Salt Lake City, UT 84111
(801) 521-5800